

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07/10/2003

CORAM

THE HONOURABLE MR. JUSTICE P.K.MISRA

WRIT PETITION No.8416 of 1999

G.Ramasamy .. Petitioner

-Vs-

1.The District Collector,
Villupuram District,
Villupuram.

2.The Special Tahsildar,
Adi-Dravidar Welfare,
Ulundurpet. .. Respondents

Petition filed under Article 226 of the Constitution of India
praying for the issue of a Writ of Certiorarified Mandamus, to call for the
records of the first respondent in his proceedings Na.Ka./M-5/27812 /98 dated
23.1.1999 and to quash the same as it is illegal and to direct the respondents
not to acquire the petitioner's lands in S.No.230 /11-B, Chennakunam,
Puravadai Village, Thirukoilur Taluk, Villpuram District.

!For Petitioner :: Mr.AR.L.Sundaresan
for Mr.P.Balasubramanian

For Respondents :: Mrs.D.Malarvizhi,
Government Advocate.

:O R D E R

Heard the learned counsels appearing for the parties.

2. In this writ petition, the petitioner has challenged the
acquisition of land under Tamil Nadu Acquisition of Land for Harijan Welfare
Schemes Act, 1978, hereinafter called the Act.

3. Several contentions have been raised. However, it is not
necessary to deal with all those contentions as in my opinion, the writ
petition is to be allowed and the impugned proceedings have to be quashed on
the ground that the decision to acquire the land has been taken by the
District Revenue Officer and not by the District Collector which is apparent
from the orders produced in the typed set as well as from the file which was

produced by the learned Mrs.D.Malarvizhi appearing on behalf of the Government.

4. Section 4 of the Act is to the following effect:

"4.Power to acquire land.---(1) Where the District Collector is satisfied that for the purpose of any Harijan Welfare Scheme, it is necessary to acquire any land, he may acquire the land by publishing in the District Gazette a notice to the effect that he has decided to acquire the land in pursuance of this Section.

(2) Before publishing a notice under sub-section (1), the District Collector or any Officer authorised by the District Collector in this behalf, shall call upon the owner or any other person, who, in the opinion of the District Collector or the Officer so authorised may be interested in such land, to show cause why it should not be acquired.

(3) (a) The District Collector may, where he has himself called upon the owner or other person to show cause under sub-section (2), pass such orders as he may deem fit on the cause so shown;

(b) Where any Officer authorised by the District Collector has called upon the owner or other person to show cause under sub-section (2), the Officer so authorised shall make a report to the District Collector containing his recommendations on the cause so shown for the decision of the District Collector. After considering such report the District Collector may pass such orders as he may deem fit".

5. On perusal, the aforesaid provision, it is clear that the decision to acquire the land is to be taken by the District Collector and not by any other Officer or authority including the District Revenue Officer.

6. Learned counsel appearing for the respondent submitted that the Collector has delegated such power to the District Revenue Officer. The file containing such delegation has been produced before me. The power under Section 4 is a statutory power conferred by the Act and there is no provision in the statute which authorises the Collector to delegate such power to any other authority.

7. The learned counsel for the respondents, however, relied upon the provisions containing in Section 16 of the Act, which is to the following effect:

"16. Delegation of functions[]The Government may, by notification in the Tamil Nadu Government Gazette, direct that any power conferred or any duty imposed on them by this Act except the power to make rules, shall, in such circumstances and under such conditions, if any, as may be specified in the Notification, be exercised or discharged also by the District Collector".

Explanation.---For the purpose of this section "District Collector" shall include the District Revenue Officer.

8. The delegation contemplated in Section 16 relates to the delegation of any power or duty imposed on the Government and it does not contemplate delegation of any power or function of the Collector. The explanation indicates that for the purpose of this section (meaning thereby section 16) the expression Collector includes District Revenue Officer. The

explanation does not provide that for the purpose of the entire Act, the expression Collector includes the District Revenue Officer.

9. A similar view has been expressed in W.P.Nos.6307 and 6308 of 19 98 disposed of on 15.7.2003.

10. For the aforesaid reason the decision by District Revenue Officer to acquire the land under the Act is quashed and the writ petition is allowed. No costs.

Index : Yes.

Internet: Yes.

svn

To

1.The District Collector,
Villupuram District,
Villupuram.

2.The Special Tahsildar,
Adi-Dravidar Welfare,
Ulundurpet.

□